IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1201 of 2004

&

WRIT PETITION No. 13391 of 2004

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WRIT APPEAL NO : 1201 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 30/07/2004 in WPMP No. 17153 of 2004 in WP No.13391 OF 2004 on the file of the High Court.)

Between:

Vidyodaya Educational Society, Regd.No. 122 of 1982,
Rep. by Smt. P. Yamini, W/o I. Ramamohana Reddy, Correspondent and Secretary, Kurnool, R/o Kurnool.

..... APPELLANT

AND

Sri Krishnadevaraya University, rep. by its Registrar, Anantapur.

.....RESPONDENT

WRIT PETITION No.13391 of 2004 :

Between:

Vidyodaya Educational Society, Regd.No. 122 of 1982,
Rep. by Smt. P. Yamini, W/o I. Ramamohana Reddy, Correspondent and Secretary, Kurnool, R/o Kurnool.

..... PETITIONER

AND

Sri Krishnadevaraya University, rep. by its Registrar, Anantapur.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an Order or Direction more particularly one int he nature of Writ of Mandamus (a) Declaring the action of the respondent in not finalising the proposals for renewal of affiliation for M.Com. Professional for the academic year 2004-2005 in respect of the petitioner society as arbitrary and violative of Article 14 of the Constitution of India; (b) Consequently direct the respondent to forthwith clear the proposals of the petitioner society pending with the respondent University and grant the renewal of affiliation for M.Com professional for the academic Year 2004-2005; (c) Consequent upon such a direction, further direct the respondent university to allot students to the Rayalaseema Institute of Excellence, P.G. College run by the petitioner society.

Counsel for the Appellant in both the cases: MR.SIVA

Counsel for the Respondent in both the cases: MR.P.SREE RAMULU NAIDU

The Court made the following :

ORAL JUDGMENT :

(Per Hon'ble The Chief Justice).

…

1. As per the averments made in the petition, the petitioner-institution was being granted affiliation by the respondent-University. Such affiliation was being issued temporarily on year to year basis and on that basis, students were admitted into P.G.Courses including M.Com.Professional, M.C.A. and even M.B.A. It is alleged that permission for commencing these courses was issued by the Government of Andhra Pradesh on the recommendations of Andhra Pradesh State Council for Higher Education and on that basis, temporary affiliation was granted. Petitioner has thereafter referred to certain instances which led to enquiry being conducted by the respondent-University on the complaints. It is further stated that though report of the enquiry, which was constituted, was submitted on 30.6.2004, the respondent-University has not taken any steps to take any final decision for renewal of affiliation for M.Com.Professional course for the academic year 2004-2005 and name of the petitioner-institution does not find mention in the list of colleges for which admissions are due to be made for the academic year 2004-2005. Thus, petitioner-institution sought direction against the respondent-university to forthwith take appropriate decision on the proposal for grant of renewal of affiliation to the petitioner-institution for the academic year 2004-2005.

2. Learned single Judge did not grant any interim relief while issuing Rule Nisi, on the ground that interim relief was the same as prayed for in the main writ petition. The petitioner-institution, being aggrieved of the same, filed this appeal.

3. Learned counsel for the appellant submits that non-grant of interim relief while keeping the writ petition pending, will almost result in irreparable loss and injury and will have the effect of almost making the writ petition infructuous, and more over the balance of convenience lie in favour of grant of some interim relief since petitioner/appellant was being granted affiliation on year to year basis and only an enquiry, was pending, had prevented the respondent from taking a decision and the report of the enquiry which was received more than a month ago from the date of proposal for affiliation. He

has placed reliance on the decision of the Supreme Court reported in *Deoraj V. State of Maharashtra &others*

wherein it has been held as follows.

> "Ordinarily, this Court in its exercise of jurisdiction under Article 136 of the Constitution does not interfere with the orders of interim nature passed by the High Court or Tribunals. This is a rule of discretion developed by experience, inasmuch as indulgence being shown by this Court at an interim stage of the proceedings pending before a competent Court or Tribunal results in duplication of proceedings; while the main matter is yet to be heard by the Court or Tribunal seized of the hearing and competent to do so, valuable time and energy of this Court are consumed in adjudicating upon a controversy the life of which will be co-terminus with the life of the main matter itself which is not before it and there is duplication of pleadings and documents which of necessity shall have to be placed on the record of this Court as well. However, this rule of discretion followed in practice is by way of just self-imposed discipline.
>
> The Courts and Tribunals seized of the proceedings within their jurisdiction take a reasonable time in disposing of the same. This is on account of fair procedure requirement which involves delay intervening between the previous and the next procedural steps leading towards preparation of case for hearing. Then, the Courts are also over burdened and their hands are full. As the conclusion of hearing on merits is likely to take some time, the parties press for interim relief being granted in the interregnum. An order of interim relief may or may not be a reasoned one but the factors of *prima facie* case, irreparable injury and balance of convenience do work at the back of the mind of the one who passes an order of interim nature. Ordinarily, the Court is inclined to maintain *status quo* as obtaining on the date of the commencement of the proceedings. However, there are a few cases which fall for the Court's leaning not in favour of maintaining the *status quo* and still lesser in percentage are the cases when an order tantamounting to a mandamus is required to be issued even at an interim stage. There are matters of significance and of moment posing themselves as moment of truth. Such cases do cause dilemma and put the wits of any Judge to test.
>
> Situations emerge where the granting of an interim relief would tantamount to granting the final relief itself. And then there may be converse cases where withholding of an interim relief would tantamount to dismissal of main petition itself; for, by the time the

main matter comes for hearing there would be nothing left to be allowed as relief to the petitioner though all the findings may be in his favour. In such cases the availability of a very strong *prima facie* case – of a standard much higher then just *prima facie* case, the considerations of balance of convenience and irreparable injury forcefully tilting the balance of case totally in favour of the applicant may persuade the Court to grant an interim relief though it amounts to granting the final relief itself. Of course, such would be rare and exceptional cases. The Court would grant such an interim relief only if satisfied that withholding of it would prick the conscience of the Court and do violence to the sense of justice, resulting in injustice being perpetuated throughout the hearing, and at the end the Court would not be able to vindicate the cause of justice. Obviously such would be rare cases accompanied by compelling circumstances, where the injury complained of is immediate and pressing and would cause extreme hardship. The conduct of the parties shall also have to be seen and the Court may put the parties on such terms as may be prudent".

4. We have heard learned counsel for the parties.

5. Considering the nature of claim made in the petition, we are of the view that it was very innoxious prayer being made by the petitioner-institution which was being granted affiliation on year to year basis, to issue direction against the respondent-University to expeditiously finalise its proposal for grant of renewal for the academic year 2004-2005 for which admissions had commenced. Non-granting of such a relief, in fact, would not cause any injury to the appellant/petitioner, but the student community, who in the hope and expectation, must be keeping hopes alive for admissions in the institution imparting M.Com.Professional course. There is no reason why the respondent-university could not take decision in such like matters where the report of enquiry was received by it more than a month ago, particularly keeping in view the fact that the admissions for the new academic year would commence for the first week of August. Consequently, we allow the appeal, setting aside the impugned order of the learned single Judge, and would proceed to dispose of the Writ Petition with a direction to the respondent to take appropriate decision in accordance with law on the proposal of petitioner-institution for affiliation within a period of one week from the date of

receipt of Writ Order. We make it clear that in case the respondent-university would feel handicap in taking final decision on the enquiry report, nothing would prevent the respondent-University even to consider the case of petitioner-institution for grant of affiliation on reasonable conditions so that the student community would not suffer because of inaction on the part of the respondent-University. Ordered accordingly. No costs.

DEVINDER GUPTA,C.J.

5th August,2004.

C.V.RAMULU,J.

DRK

NOTE: Furnish CC tomorrow.

(B.O.)

Copy to:

1. Sri Krishnadevaraya University, rep. by its Registrar, Anantapur.
2. Two CD copies.

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Counsel for the Petitioner:MR.SIVA

Counsel for the Respondent No.: MR.P.SREE RAMULU NAIDU